Policies and Procedures No. 50

Subject: **Board Approval:** 5/13/04

ENGINEERING AND CONSTRUCTION EXPENSE COST RECOVERY FOR PLAN REVIEW, REAL ESTATE ACTIONS, AND RIGHT OF ENTRY PERMITS

PURPOSE:

It is the intention of MTDB to recover engineering and construction expenses incurred in support of actions from public agencies and private parties that impact MTDB facilities and property.

BACKGROUND:

Public agencies and private parties request access to MTDB right-of-way for various reasons. Some requests are for temporary access with minimal impact on MTDB facilities. Other requests can have a significant impact on MTDB facilities and may include placement of permanent facilities within the right-of-way. The various requests tax MTDB staff time, including consultant effort, for plan reviews, coordination, real estate entitlement processing, right of entry (ROE) permit reviews, approvals, construction inspection, documentation, and closeout. This policy will formalize procedures for MTDB staff to process requests for entry and various real estate actions and to recover costs incurred by the agency in this effort.

POLICY:

MTDB will recover expenses incurred for plan review, real estate actions, and ROE permit reviews and inspections according to the following criteria:

50.1 Minimum to No Impact Requests – These requests for access to MTDB facilities have minimal to no impacts and are typically for day use ROE permits. The staff effort is light and a fixed fee will be charged to the applicant. The standard fee is $500 to cover staff preparation time, approvals, and processing. This fee will be evaluated on an annual basis and will be adjusted if warranted upon approval from the Chief Executive Officer. The applicant will be required to complete the ROE Permit/Plan Review Application (Attachment A) and to submit the application according to the MTDB/San Diego and Arizona Eastern (SD&AE) Railway Company ROE Permit Instructions (Attachment B).

50.2 Minor Impact Requests – These requests for access to MTDB facilities have minor impacts but require up to $5,000 of staff time to process the encroachment. These impacts typically require engineering review and construction coordination for the ROE permit. Some real estate entitlement may be required, such as granting an

easement. The staff time to analyze the request, coordinate reviews, conduct field inspections, and closeout the permit exceeds the minimum permit fee. Staff will estimate engineering and construction inspection expenses, including consultant fees. For fees estimated below $5,000, staff will submit the estimate to the Right-of-Way Manager for approval. This approval will constitute the permit fee. Additional funds may be necessary if a scope change or additional work is identified. The applicant will follow the application process as described in No. 1 above. Plan review submittals with an expense below $5,000 will follow the same process.

50.3 Major Impact Requests – For those access requests with a staff expense over $5,000, a deposit of funds will be required to cover costs. MTDB will account for the draw down of the funds and require additional funds as necessary. Any excess deposited funds will be reimbursed to the applicant after MTDB is satisfied that all requirements are met.

50.4 Real Estate Actions – Any real estate transaction generated by a public agency or a private party will follow the above criteria.

50.5 Waiver of Fees – Fees may be waived at the descretion of the Chief Executive Officer. Examples of waivers would be for nonprofit agencies or for local agencies that have a reciprocal fee waiver agreement with MTDB.

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Attachments: A. Right of Entry Permit/Plan Review Application
B. MTDB/SD&AE Right of Entry Permit Instructions

Original Policy approved on 10/16/03.
Policy revised on 5/13/04.